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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Ned Alan Sandoval,

10 Petitioner,

11 v.

12 David Shinn,

13 Respondent.  
14

No. CV-22-08037-PCT-JAT

**ORDER**

15 Pending before the Court is Petitioner's Petition for Writ of Habeas Corpus  
16 ("Petition"). The Magistrate Judge to whom this case was referred issue a Report and  
17 Recommendation ("R&R") recommending that this Court deny the Petition because it is  
18 barred by the statute of limitations.

19 **I. Review of R&R**

20 This Court "may accept, reject, or modify, in whole or in part, the findings or  
21 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). It is "clear that  
22 the district judge must review the magistrate judge's findings and recommendations *de*  
23 *novo if objection is made*, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d  
24 1114, 1121 (9<sup>th</sup> Cir. 2003) (*en banc*) (emphasis in original); *Schmidt v. Johnstone*, 263  
25 F.Supp.2d 1219, 1226 (D. Ariz. 2003) ("Following *Reyna-Tapia*, this Court concludes that  
26 *de novo* review of factual and legal issues is required if objections are made, 'but not  
27 otherwise.'"); *Klamath Siskiyou Wildlands Ctr. v. U.S. Bureau of Land Mgmt.*, 589 F.3d  
28 1027, 1032 (9<sup>th</sup> Cir. 2009) (the district court "must review *de novo* the portions of the

1 [Magistrate Judge’s] recommendations to which the parties object.”). District courts are  
 2 not required to conduct “any review at all . . . *of any issue* that is not the subject of an  
 3 objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (emphasis added); *see also* 28 U.S.C.  
 4 § 636(b)(1) (“the court shall make a *de novo* determination of those portions of the [report  
 5 and recommendation] to which objection is made.”).

6 Petitioner filed objections to the R&R. (Doc 14). Respondent replied to the  
 7 objections. (Doc. 15).

## 8 **II. Objections**

9 Preliminarily, Petitioner makes a global objection. (Doc. 14 at 1). Specifically,  
 10 Petitioner states that he requests, “that this Court [] reject the Recommendations in [their]  
 11 entirety and grant relief on the Petition for a Writ of Habeas Corpus.” (*Id.*). However,  
 12 global or general objections are insufficient to cause the Court to engage in a *de novo*  
 13 review of an R&R. *See Kenniston v. McDonald*, No. 15-CV-2724-AJB-BGS, 2019 WL  
 14 2579965, at \*7 (S.D. Cal. June 24, 2019); *Warling v. Ryan*, 2013 WL 5276367, at \*2 (D.  
 15 Ariz. Sept. 19, 2013); *Martin v. Ryan*, CV-13-00381-PHX-ROS, 2014 WL 5432133, \*2  
 16 (D. Ariz. October 24, 2014). Accordingly, the Court overrules without further analysis this  
 17 global objection.

18 The R&R recounts the law governing the statute of limitations under the Anti-  
 19 Terrorism and Effective Death Penalty Act (“AEDPA”). (Doc. 13 at 3-5). Neither party  
 20 has objected to this discussion of the governing law, and the Court hereby accepts and  
 21 adopts it.

22 The R&R concludes that Petitioner did not file this case within the one-year AEDPA  
 23 statute of limitations. (Doc. 13 at 7). Specifically, the R&R determines that the statute of  
 24 limitations expired on July 16, 2005, therefore the Petition in this case, filed on March 7,  
 25 2022, was untimely. (Doc. 13 at 4). Neither party objected to this determination and the  
 26 Court hereby accepts and adopts it.

27 The R&R recognizes that there is a gateway around the statute of limitations for  
 28 someone who is actually innocent (Doc. 13 at n.1) and that the statute of limitations is

1 subject to equitable tolling (Doc. 13 at 5-6). The R&R concludes that neither of these  
2 exceptions to the statute of limitations applies to Petitioner. (Doc. 13 at 7). While  
3 Petitioner's objections are not exactly clear, Petitioner appears to object to this conclusion.

4 Because Petitioner states in his objections that he is not trying to overturn his  
5 conviction, he is only seeking a sentence reduction (Doc. 14 at 3), the Court finds Petitioner  
6 is not arguing for an actual innocence exception to the statute of limitations. Petitioner  
7 does not argue, as it relates to equitable tolling, that any extraordinary circumstances stood  
8 in his way that prevented him from timely filing. *See generally* (Doc. 14). Instead,  
9 Petitioner argues the merits of his underlying claims. *See generally* (Doc. 14). Because  
10 this case is barred by the statute of limitations and not subject to an exception to the statute  
11 of limitations, the Court will not consider the merits of Petitioner's claims. As a result, the  
12 portion of the objections arguing the merits of Petitioner's claims is overruled.

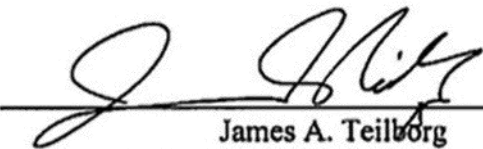
### 13 **III. Conclusion**

14 All of Petitioner's objections having been overruled, the Court adopts the R&R's  
15 conclusion that the Petition in this case is barred by the statute of limitations. Therefore,

16 **IT IS ORDERED** that the Report and Recommendation (Doc. 13) is accepted; the  
17 Petition is denied and dismissed with prejudice because it is barred by the statute of  
18 limitations, and the Clerk of the Court shall enter judgment accordingly.

19 **IT IS FURTHER ORDERED** that pursuant to Rule 11 of the Rules Governing  
20 Section 2254 Cases, in the event Petitioner files an appeal, the Court denies issuance of a  
21 certificate of appealability because dismissal of the petition is based on a plain procedural  
22 bar and jurists of reason would not find this Court's procedural ruling debatable. *See Slack*  
23 *v. McDaniel*, 529 U.S. 473, 484 (2000).

24 Dated this 24th day of August, 2022.

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James A. Teilborg  
Senior United States District Judge